

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DON R. BUDD,

Plaintiff,

Case No. 1:19-cv-466

v.

HONORABLE PAUL L. MALONEY

SUMMIT POINTE, et al.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

Plaintiff Don R. Budd initiated this lawsuit on June 12, 2019, by filing his complaint against Summit Pointe, Summit Pointe South, Battle Creek Health Systems, Fieldstone Center, and 100 unknown or “Doe” defendants. Plaintiff alleges Defendants violated his rights under two federal statutes, the Americans with Disabilities Act (ADA), 42 U.S.C. § 12182, and the Rehabilitation Act (RA), 29 U.S.C. § 794. Plaintiff has also included supplemental state law claims.

Defendants Battle Creek Health Systems and Fieldstone Center filed a motion for summary judgment. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on February 14, 2020, recommending that this Court grant the motion with respect to Plaintiff’s ADA and RA claims arising from the 2006 incidents, dismiss all of Plaintiff’s ADA and RA claims, dismiss the complaint as to Defendants Does 1-100, dismiss the state law claims, and enter judgment in favor of Defendants. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Therefore,

**IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 31) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Motion for Summary Judgment (ECF No. 11) is GRANTED with respect to Plaintiff's ADA and RA claims arising from the 2006 incidents.

**IT IS FURTHER ORDERED** that Plaintiff's ADA and RA claims against Defendants Summit Pointe and Summit Pointe South arising from the 2006 incidents are DISMISSED pursuant to 42 U.S.C. § 1915(e)(2)(B)(ii).

**IT IS FURTHER ORDERED** that Plaintiff's ADA and RA claims alleged arising from the 2018 and 2019 incidents are DISMISSED pursuant to 42 U.S.C. § 1915(e)(2)(B)(ii).

**IT IS FURTHER ORDERED** that Does 1-100 are DISMISSED pursuant to 42 U.S.C. § 1915(e)(2)(B)(ii).

**IT IS FURTHER ORDERED** that Plaintiff's state law claims are DISMISSED pursuant to 28 U.S.C. § 1367.

**This action is TERMINATED.**

**IT IS FURTHER ORDERED** that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith. See *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

A Judgment will be entered consistent with this Order.

Dated: March 4, 2020

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge